

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARK A. WALLER,)	
)	
Petitioner,)	
)	
vs.)	NO. CIV-10-1359-D
)	
)	
ERIC FRANKLIN, Warden,)	
)	
Respondent.)	

ORDER

Petitioner, a state prisoner appearing *pro se*, brought this action for a writ of habeas corpus pursuant to 28 U.S.C. §2241. In accordance with 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Doyle W. Argo for initial proceedings.

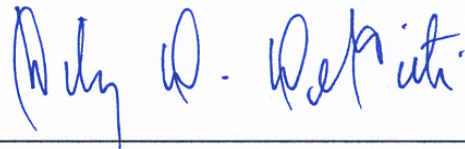
In response to the Petition, Respondent filed a motion to dismiss the action as untimely and for failure to exhaust administrative remedies. Petitioner responded and, on April 19, 2011, Judge Argo filed a Report and Recommendation [Doc. No. 10] in which he recommended that the motion to dismiss be granted because Petitioner failed to exhaust his available administrative remedies prior to filing this action. He also recommended denial of Petitioner's request for injunctive relief.

In the Report and Recommendation, the Magistrate Judge advised Petitioner of his right to object to the same, and he scheduled a May 9, 2011 deadline for filing objections. The Magistrate Judge also advised Petitioner that a failure to timely object would constitute a waiver of his right to appellate review of the factual findings and legal conclusions contained in the Report and Recommendation.

To date, Petitioner has not filed an objection and has not sought an extension of time in

which to do so. Accordingly, the Report and Recommendation [Doc. No. 10] is adopted as though fully set forth herein. The action is dismissed without prejudice to the filing of a new action after Petitioner has fully exhausted his available administrative remedies. Petitioner's request for injunctive relief is denied.

IT IS SO ORDERED this 17th day of May, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE